

ABSTRACT

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“THE JUDGE'S CONSIDERATION TO GRANT THE REQUEST OF BANKRUPTCY AGAINST STATE-OWNED ENTERPRISES (COURT DECISION NUMBER 01/Pdt.Sus.Pembatalan Perdamaian/2018/PN Niaga Sby. JO Nomor 5/Pdt.Sus-PKPU/2014/PN Niaga Surabaya and COURT DECISION NUMBER 075 K/ Pdt.Sus/ 2007).”

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Bankruptcy is a legal option through which people or other entities declared unable to pay their debts by the court, so that the debtor's property is in general confiscation to make payments to the debts of its creditors. Following Indonesian Bankruptcy Law (Law Number 37 of 2004 on Bankruptcy and Suspension of Payment), bankruptcy does not rule out the possibility of going to State-Owned Enterprises. However, the court decisions against State-Owned Enterprises often caused controversy regarding the inconsistency on how Bankruptcy Law should be applied. This research aims to understand the regulations of bankruptcy according to positive law in Indonesia, and to analyze the reasoning behind the judge's considerations of bankruptcy case against PT. Kertas Leces and PT. Dirgantara Indonesia. PT. Kertas Leces and PT. Dirgantara Indonesia which are State-Owned Enterprises, both in Persero form, yet only the verdict against PT. Dirgantara Indonesia was canceled. This research utilizes a Normative-Empirical legal research method with judicial case study (Court Decision Number 01/Pdt.Sus.Pembatalan Perdamaian/2018/PN Niaga Sby. Jo Nomor 5/Pdt.Sus-PKPU/2014/PN Niaga Surabaya and Court Decision Number 075 K/ Pdt.Sus/ 2007). From the research results, it was found that: (1) there are different regulations regarding bankruptcy against State-Owned Enterprises which divided between Perum and Persero, as for bankruptcy against Perum it is stated that the Minister of Finance is the only party that can file a bankruptcy statement. (2) The court judges need to consider factors such as the company's financial condition. The financial condition of PT. Dirgantara Indonesia is still in a solvent state so it is feasible to maintain, as for PT. Kertas Leces notably has no more income therefore there is no gurantee to fulfill the rights of its creditors.

Keywords: Bankruptcy, State-Owned Enterprises, SEOs, Persero, Perum, Indonesian Bankruptcy Law.

References: 43 (1985-2020)